

REMARKS

The Final Office Action, mailed March 1, 2005, considered and rejected claims 1-7 and 9-41 in view of various combinations of art, including Jerding and Wilcox.¹

By this paper, claims 1, 12, 23 and 30 have been amended and new claims 42-45 have been added², such that claims 1-7 and 9-45 now remain pending for reconsideration, of which claims 1, 18 and 23 are the only independent claims at issue.

As discussed during the interview, the claims are directed to embodiments for providing a dynamically controllable user interface menu system that includes a plurality of categories and subcategories. As claimed, the menu system provides categories that, when selected, are displayed at a selected location on the screen. Corresponding subcategories are also displayed in a horizontal line with each selected category. Claims 1 and 23 have also been amended to clarify that the only subcategories displayed are those corresponding to the selected category, as claim 18 previously recited.

In the last action, the Examiner found that claims of this scope were obvious in view of Jerding and Wilcox. In particular, the examiner found that Jerding disclosed a similar menu system without restricting the subcategories that are displayed, but that Wilcox taught that the only subcategories displayed are those corresponding to the selected category.

¹ Claims 1- 4, 7, 9, 10, 12, 13, 23 and 27-37 were rejected under 35 U.S.C. 102(e) as being unpatentable over Jerding et al. (U.S. Patent No. 6,817,028). Claims 5, 11, 14, 15-17, and 24 were also considered and rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (U.S. Patent No. 6,817,028) in view of Satterfield (U.S. Patent No. 6,061,097). Claims 18, 22, and 38-41 were considered and rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (U.S. Patent No. 6,817,028) in view of Wilcox et al. (U.S. Patent No. 6,678,891). Claims 19- 21 were considered and rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (U.S. Patent No. 6,817,028) in view of Wilcox et al. (U.S. Patent No. 6,678,891) in view of Satterfield (U.S. Patent No. 6,061,097) and in further view of Segal et al (U.S. Patent No. 6,765,557). Claims 25 and 26 were considered and rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (U.S. Patent No. 6,817,028) in view of Satterfield (U.S. Patent No. 6,061,097) and in further view of Segal et al. (U.S. Patent No. 6,765,557). Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the new claims and amendments is drawn from Figures 5A-5D and the corresponding specification.

In this regard, as discussed during the interview, without arguing the merits of whether this combination of art actually teaches all of the claimed elements,³ Applicants respectfully submit that such a combination of references to support such a rejection is inappropriate because there is no motivation to make such a combination. In fact, as discussed during the interview, the art actually teaches away from such a combination. For example, Jerding is clearly drawn to an electronic program guide for facilitating the browsing of available programming. (col. 2, ll. 45-51). Jerding also makes it clear that because of the numerous channels available that viewers end up spending a lot of time navigating program guides. (col. 1, ll. 44-46). Accordingly, as is essentially all program guides, there is a desire to facilitate and expedite the manner in which a viewer can locate desired programming from the program guide. Jerding does this, as shown in Figs. 5-7, for example, by providing a display area having multiple listings from which the subscriber can scroll up and down to select the desired programming. (Col. 9, ll. 23-38). Jerding also provides ways for displaying programming during the navigation process.

In view of the foregoing, Applicants submit that it would not be obvious to restrict the number of listings shown to only a single channel (or category), as suggested by the Examiner on page 12 of the Office Action, because this would necessarily increase the difficulty and amount of time required to navigate through the numerous available programming, and thereby further augment an issue that Jerding has explicitly identified as a problem to be overcome.

Furthermore, restricting the programs (subcategories) to only those of a single channel (or category) also would cause Jerding to lose functionality that is explicitly provided for. In

³ Inasmuch as all of the assertions made in the last action are not explicitly addressed herein, since it is not necessary because the other arguments and claim amendments made by this paper should be adequate to overcome the art of record, Applicants reserve the right to challenge them at any appropriate time in the future.

particular, this would prevent "enabling the subscriber to scroll up and down to the various program titles listed in the main program display area..." as described. (col. 9, ll. 28-31).

In view of the foregoing, it is clear that there not a motivation provided within the references for their combination. It is also clear that such a combination would destroy at least some of the functionality described in the applications and would increase the magnitude of some of the problems that the art is directed at overcoming. In fact, Applicants respectfully submit that virtually any reference directed solely to an EPG will suffer from the same infirmities that Jerding suffers with regard to the present invention, because the menu system of the present invention is not an EPG. Instead, the menu system of the present invention is much more. In fact, as described in more detail below, the menu system of the present invention, according to some embodiments, can actually provide access to an EPG.

In view of the foregoing, Applicants respectfully submit that all of the pending independent claims should now be allowed over the art of record. Because of this, is not necessary to address each of the dependent claims or their rejections. Nevertheless, some of the dependent claims will be addressed.

Claim 42, for example, clarifies that one of the subcategories comprises a selectable program listing option that when selected, causes an electronic program guide listing to be displayed. In this regard, the cited art clearly does not teach this limitation inasmuch as the individual programs from Jerding's EPG have been equated with the subcategories of the present invention and such that it would not make sense to access an EPG from the selection of a program displayed as part of the Jerding EPG.

With regard to claim 44, the art also clearly fails to teach or suggest that such a selectable program listing option, when selected, further causes the electronic program guide listing to be

displayed with information corresponding to only a single channel and that overlaps currently displayed programming that is displayed in a background that fills a full screen. In fact, nothing in the art suggests overlapping the background with information. Instead, the programming of Jerding is put in an entirely separate frame/window, which is reduced and not overlapped. Amended claims 12 and 30 are also clearly distinguished for at least these reasons.

Finally, as recited in claim 45, the cited art also clearly fails to disclose or suggest that selection of one of the subcategories causes dimming of a currently displayed program that is displayed simultaneously with the menu system.

In view of the foregoing and for at least the other reasons addressed during the interview, Applicants respectfully submit that the pending claims are now in condition for prompt allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 27th day of April, 2005.

Respectfully submitted,



RICK D. NYDEGGER
Registration No. 26,851
ADRIAN J. LEE
Registration No. 42,785
Attorney for Applicant
Customer No. 047973

RDN:AJL:ahm
AHM000000843V001